

1 UNITED STATES DISTRICT COURT
2 DISTRICT OF MASSACHUSETTS

3 Civil Action No. 04-30172-MAP

4 ROBERT DADE, Plaintiff,

5 vs.

6 BOLAND BUILDERS, INC., THOMAS
7 M. BOLAND, STUART JONES AND
8 MARY ROSE JONES, Defendants.

9 DEPOSITION OF: STEWART JONES, called by
10 counsel for the Plaintiff, taken pursuant to the
11 Federal Rules of Civil Procedure before Leigh B.
12 Gershowitz, Certified Shorthand Reporter, Registered
13 Merit Reporter, Certified Realtime Reporter and
14 Notary Public, at the Offices of O'Connell, Flaherty
15 & Attmore, 1350 Main Street, Springfield,
16 Massachusetts, on Friday, October 21, 2005,
17 commencing at 11:03 a.m.

18 APPEARANCES:

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20 Leigh B. Gershowitz, CSR, RMR, CRR
21 Certified Shorthand Reporter
22 Registered Merit Reporter
23 Certified Realtime Reporter

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1 APPEARANCES:

2 FOR THE PLAINTIFF:

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14 BY: DANIEL H. RIDER, JR., ESQUIRE

15 FOR THE DEFENDANTS, BOLAND BUILDERS, INC. AND THOMAS
16 BOLAND:

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20 (413) 732-2301

21 BY: NANCY FRANKEL PELLETIER, ESQUIRE

22 Also in Attendance:

23 Shawn, Liberty Mutual Insurance Company
Mary Rose Jones

1 STIPULATIONS

2
3 It is agreed by and between the parties that
4 all objections, except as to the form of the
5 question, are reserved to be raised at the time of
6 trial for the first time.

7
8 It is further agreed by and between the
9 parties that all motions to strike unresponsive
10 answers are also reserved to be raised at the time of
11 trial for the first time.

12
13 It is also agreed that the deponent will
14 read and sign the deposition.

15
16 It is further agreed by and between the
17 parties that notification to all parties of the
18 receipt of the original deposition transcript is also
19 hereby waived.

5

PROCEEDINGS

STEWART JONES

a witness called for examination by counsel for the Plaintiff, being first duly sworn, was examined and testified as follows:

DIRECT EXAMINATION

BY MR. CVEJANOVICH:

Q. Tell us your full name, sir.

A. **Stewart Wayne Jones.**

Mr. Jones, you were here for your wife Mary Rose Jones's deposition, which just concluded, correct?

A. **Yes.**

And you listened to all of the ground rule instructions that I had with her, correct?

A. **Yes.**

Okay. Same thing applies, so I won't go through the whole thing again. The most important part of it is not for us to interrupt each other and for a verbal answer to each question, okay?

6

A. **Okay.**

Where do you live, sir, at the present time?

A. **169 Worthington Road.**

And you live there with Mary Rose Jones, correct?

A. **Yes.**

And you were living there on September the --

A. **7th.**

Q. -- 7th, 2001?

A. **Yes.**

At that time your wife indicated that there was a couple from Australia living at the house as well?

Yes. I'm pretty sure they were there then. I knew they were there in the summer.

At any time since Mr. Dade's accident, has either of them indicated to you that they know anything about the accident, how it happened, why it happened, anything at all?

A. **No.**

Q. Your wife also indicated that your

7

daughter was living at the house at that time; is that correct?

A. **I believe so.**

Q. Her name is Susan?

A. **Elizabeth.**

Q. Elizabeth. I'm sorry.

At any time since the accident, has Elizabeth indicated to you that she knows anything about how it happened, why it happened?

A. **No.**

Were you at the house on September 7, 2001, when Mr. Dade had his accident?

A. **Yes.**

And before that date, had you ever met Robert Dade?

A. Not as Robert Dade. I saw the crew and was -- basically they were the crew.

So after the accident, when you saw Mr. Dade, you recognized him as being a member of the Dade Roofing crew?

A. Yeah. That's when I learned, at the time of the accident, that he was their supervisor because they told me.

8

Q. And did you ever know before his accident that his last name was Dade, the name of the company?

A. I don't believe so. It's been a long time. It's -- it's possible, but I really don't know.

Before the accident, when is the first time you met that gentleman whom you came to know as Robert Dade? When is the first time you saw him?

A. As I remember, they were there the day before, you know, actual work started. They just kind of getting an idea of what was going to be expected. And -- I'm sorry. What was the question again?

Q. When was the first time you saw him?

A. **Saw him, yeah. That was --**

Whether or not you were formally introduced or not.

A. **-- was with the crew.**

Q. And they were laying out the job?

A. **Yeah.**

Q. As a general description?

A. **Yes.**

Q. Your wife described a walk-through of the

9

1 house. You heard that testimony from her?

2 A. Yes.

3 Q. Were you present when that occurred?

4 A. Yes, I was.

5 Q. Where were you?

6 A. I was actually passing through the kitchen

7 at the time that Tom was giving them the -- the

8 description and tour and showing them the skylights.

9 I was going through at the time he was actually

10 showing them the skylights.

11 Q. And "Tom" being Mr. Boland?

12 A. Yes.

13 Q. Who all was with Tom Boland at that time,

14 as you recall?

15 A. I -- all I recall is Tom and the crew from

16 the roofing company.

17 Q. And the crew consisted of how many men, as

18 you recall?

19 A. It seemed like four, maybe five people.

20 Q. And how long was that before Robert Dade's

21 accident, if you can recall?

22 A. I believe, if I remember correctly, it was

23 the day before.

10

1 Q. And do you recall specifically whether or

2 not Robert Dade was one of the individuals in the

3 group with Mr. Boland?

4 A. I believe that he was. I made a statement

5 much sooner after -- after the accident, I'd have to

6 say whatever was on the statement was, you know, what

7 happened, as far as my view is. I -- right now, I

8 mean, I can't remember faces or things like that.

9 Q. Okay. Let me ask you it in a slightly

10 different way. As we sit here today, can you swear

11 to it that he was there, that Robert Dade was one of

12 the people in the kitchen?

13 A. I know that I believed all of this time

14 that he was one of the people that was there. And if

15 I have a mental picture in my head of it, I couldn't

16 tell you for sure. But I -- it was my understanding

17 that he was there from what I had remembered what I

18 had said before.

19 Q. Okay.

20 A. And I would trust -- so I'm trusting, you

21 know -- I shouldn't drive you through my mental

22 processes, but...

23 Q. Okay. Let me back up and ask you

11

1 something different. What is your profession or

2 occupation, by the way?

3 A. Right now I'm just caretaking our house

4 and properties. I --

5 Q. What is your most recent profession or

6 occupation?

7 A. Last job I had was with EDS. I just

8 recently got it -- it was in 1998 -- I got a computer

9 science degree, went to work for EDS for a few

10 months, and then decided I needed to be at home.

11 Q. Okay. Now, when was it that you decided

12 to be at home? In '98? Roughly.

13 A. '98 or '99, or probably '99.

14 Q. Okay. Was there any other walk-through

15 that you recall with Dade Roofing?

16 A. Any other walk-through?

17 Q. Right.

18 A. No. They did the walk-through and then

19 they stayed. They were working down on the barn.

20 Q. So the walk-through you recall being the

21 day before the work was done -- the roofing work was

22 done on the barn; is that correct?

23 A. Mm-hmm. Yes.

12

1 Q. Now, was the roofing on the house done the

2 same day as the barn?

3 A. No.

4 Q. Was the barn finished before the roofing

5 on the house started?

6 A. Yes.

7 Q. And how long did that take, if you can

8 recall?

9 A. The barn wasn't very -- I think -- I don't

10 recall. It seemed like it was just a one-day job for

11 the barn.

12 Q. Turning back to the day of the

13 walk-through in the kitchen, were the skylight holes

14 cut in the ceiling?

15 A. Yes.

16 Q. And was there anything covering the

17 skylight holes on the outside?

18 A. On the outside, the tarpaper was on, yes.

19 Q. At any time during the construction

20 process after the skylight holes have been cut, was

21 there anything else covering them, like plywood or

22 roofing sheeting or anything like that?

23 A. I couldn't tell you. It seemed like they

13

1 **would've had to put something up to keep the rain**
2 **out, but I don't recall.**

3 MR. RIDER: I don't want you to guess.

4 BY MR. CVEJANOVICH:

5 Q. Do you ever recall seeing any barriers or
6 caution tape around the skylights on the outside of
7 the roof?

8 A. No.

9 Q. The tarpaper that was on the roof, what
10 area did it cover? Did it cover the whole roof?

11 A. **It covered the whole roof of the addition.**
12 **The house -- old part of the house still had shingles**
13 **on it.**

14 Q. So when the roofing crew arrived to do the
15 inspection and then anticipating that the next day
16 they would start on the garage roof, if I were to
17 stand outside, look up at the roof, in the new
18 remodeled part of the main house, it was -- the
19 entire roof was covered in tarpaper?

20 A. **I believe so. It was prepped for to have**
21 **the roof on, yes.**

22 Q. And, again, I'm going to apologize for
23 being redundant here. Lawyers are very redundant.

14

1 Looking at Exhibit No. 1, the top photograph is a
2 picture of the exterior of your house at the
3 entrance, correct?

4 A. Yes.

5 Q. And the roof is the finished roof that
6 Dade Roofing put on?

7 A. Yes.

8 Q. And on the left-hand side of the roof,
9 there are three skylights and those are the three
10 that we're talking about?

11 A. Yes.

12 Q. And the third one in from the left is the
13 one where Mr. Dade fell?

14 A. **Third from the left, yes.**

15 Q. And now, there's a long portion of roof
16 and then there's a change in the front entrance and
17 then as you continued to the right, there's another
18 long portion of roof, correct?

19 A. Yes.

20 Q. Was -- were both long portions of roof
21 tarpapered on the day that the walk-through was done,
22 if you can recall?

23 A. **Both long portions? This --**

15

1 Q. When I say "both long portions," I mean,
2 from the left, there's a long portion before you get
3 to this main entrance that changes sort of the
4 structure of the roof and the entranceway and then
5 there's a second long portion that covers the rest of
6 the house, that's what I mean.

7 A. **The paper was just on the kitchen half.**
8 **This still had the shingles on it.**

9 Q. Okay.

10 A. **That we --**

11 Q. The problem with using words like "this,"
12 is somebody who reads the deposition doesn't know
13 what we're pointing to.

14 A. **Absolutely.**

15 Q. So the long portion on the left-hand side
16 that encompasses the three skylights and runs from
17 the edge of the roof to the entranceway where the
18 roof pitch changes, that was all tarpapered?

19 A. Yes.

20 Q. And that was all kitchen underneath?

21 A. Yes.

22 Q. Kitchen and the wraparound porch?

23 A. Yes.

16

1 Q. And the other portion to the right of the
2 entranceway, that still had shingles?

3 A. Yes.

4 Q. What's underneath that?

5 A. **Underneath?**

6 Q. What part of the house is under there?

7 A. **That is the old kitchen or now the dining**
8 **room that Mary Rose spoke of earlier where her office**
9 **is and the living room is underneath there.**

10 Q. Okay. As you go from the entranceway in
11 the middle of the house to the right, which do you
12 get to first, Mary Rose's office or the living room?

13 A. **Well, the --**

14 Q. Which one is closest to this center
15 section?

16 A. **Closest to the center is the dining room**
17 **and the office area.**

18 Q. Okay. And then as you go further --

19 A. **To the right.**

20 Q. -- towards the edge of the house, you get
21 to the living room?

22 A. Yes.

23 Q. Now, when the walk-through was done, the

17

1 entire roof was tarpapered, correct?

2 A. Yes.

3 Q. Do you recall any of the specific

4 conversation that went on on that day, the

5 walk-through?

6 A. **No, I don't -- it's been too long ago. I**

7 **do remember pictures of Tom pointing at the skylight.**

8 **But no -- I don't remember the conversation, no.**

9 Q. Looking at Exhibit No. 2 -- and we're

10 going to orient them so that the exhibit sticker is

11 upside down at the top left-hand corner -- the top

12 photograph shows the two skylights we're talking

13 about?

14 A. **Two of the three, yes.**

15 Q. And the bottom photograph shows one of the

16 skylights, correct?

17 A. **Hard to tell. Yes. Yes.**

18 Q. And as we sit here today, do you recall

19 which, if either, of the two skylights in the upper

20 photograph --

21 A. **It was this one.**

22 Q. You're pointing to the lower skylight in

23 the upper photograph?

18

1 A. Yes.

2 Q. Where were you when Mr. Dade's accident

3 happened?

4 A. **As I remember, I was in the basement**

5 **because I remember having -- rushing up the stairs**

6 **wondering what the loud noise was.**

7 Q. Using Exhibit No. 1 in the top photograph,

8 how would you get from the basement to where the

9 skylight was, where the kitchen is?

10 A. **Well, the way I went, there's a spiral**

11 **staircase on the right-hand -- on this picture, on**

12 **Exhibit 1, on the top of the right-hand side, there's**

13 **a spiral stair case coming from the basement.**

14 Q. So you're looking at the far right-hand

15 side of the photograph?

16 A. Yes.

17 Q. And the far right-hand side of the house?

18 A. Yes.

19 Q. So you would then have to go through the

20 living room --

21 A. **Mm-hmm.**

22 Q. -- the kitchen, dining room --

23 A. **Mm-hmm.**

19

1 Q. -- that was your wife's home office --

2 A. **Mm-hmm.**

3 Q. -- through the entranceway and then into

4 the kitchen, correct?

5 A. Yes.

6 Q. When you got into that -- first of all,

7 what alerted you to the fact that there had been an

8 accident?

9 A. **Just a very loud crash.**

10 Q. And you immediately came upstairs to see

11 what had happened?

12 A. Yes.

13 Q. And when you got to the kitchen, who all

14 was there?

15 A. **I can't -- all I remember is Dade on the**

16 **ground, on the floor, and I know that my wife was**

17 **there. I don't actually remember -- I don't have a**

18 **visual picture of her there, but...**

19 Q. But your recollection is that she got

20 there before you did?

21 A. Yeah.

22 Q. Do you recall your daughter being there at

23 all?

20

1 A. No.

2 Q. Do you recall, as we sit here today, do

3 you recall anything that was said by anybody while

4 Mr. Dade was in the kitchen after the accident?

5 A. **Anything that was said?**

6 Q. Either by your wife, by your daughter, by

7 Mr. Dade, by you.

8 A. **All I remember is that he was in pain. He**

9 **was holding his nose because he hit his nose,**

10 **evidently. I believe I went over to the phone that**

11 **was in the kitchen and called 911.**

12 Q. You say he --

13 A. The only --

14 Q. Go ahead.

15 A. **The only thing I remember in conversation**

16 **was that he didn't want the paramedics to touch him**

17 **because he got upset because one of them brushed up**

18 **one of their -- they had a bag or something and it**

19 **got too close to him, as far as he was concerned, and**

20 **this upset him and didn't want them to touch him**

21 **because he was questioning their competence, I guess.**

22 Q. You said he was holding his nose?

23 A. Yes.